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MONTANA LEGISLATIVE HISTORY

Chapter 539 19 93

Bill H _____ S 106 Original bill & history ____C

H. Committee on	Local Government		S. Committee on	Local Government	
Hearing Date(s)	Mar 09	✓ C	Hearing Date(s)	Jan 21	✓ C
	Mar 16	✓ C			C
	Apr 06	✓ C			C
		C			C
Date Out	Apr 06	✓ C		Jan 22	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

4/12	SIGNED BY GOVERNOR CHAPTER NUMBER 313 EFFECTIVE DATE: 10/01/93		

SB 105 INTRODUCED BY STANG, ET AL.

ELIMINATE LOG HAULER CERTIFICATION

1/08	INTRODUCED		
1/08	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/21	HEARING		
2/04	COMMITTEE REPORT—BILL PASSED		
2/08	2ND READING PASSED	35	11
2/09	3RD READING PASSED	42	8
	TRANSMITTED TO HOUSE		
2/10	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/10	FIRST READING		
3/15	HEARING		
3/19	COMMITTEE REPORT—BILL CONCURRED		
3/29	MOTION FAILED TO NOT CONCUR ON 2ND READING	41	56
3/29	2ND READING CONCURRED	55	42
3/31	3RD READING CONCURRED	66	33
	RETURNED TO SENATE		
4/07	SIGNED BY PRESIDENT		
4/07	SIGNED BY SPEAKER		
4/13	TRANSMITTED TO GOVERNOR		
4/16	SIGNED BY GOVERNOR CHAPTER NUMBER 364 EFFECTIVE DATE: 10/01/93		

SB 106 INTRODUCED BY GAGE

REVISE REFUND OF TAXES BY COUNTY COMMISSIONERS

BY REQUEST OF DEPARTMENT OF REVENUE

1/08	INTRODUCED		
1/08	REFERRED TO LOCAL GOVERNMENT		
1/21	HEARING		
1/22	COMMITTEE REPORT—BILL PASSED		
1/23	2ND READING PASSED	45	0
1/25	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
1/26	FIRST READING		
1/26	REFERRED TO LOCAL GOVERNMENT		
3/09	HEARING		
3/16	TABLED IN COMMITTEE		
4/07	COMMITTEE REPORT—BILL CONCURRED		
4/12	2ND READING CONCURRED	77	21
4/13	3RD READING CONCURRED	78	22
	RETURNED TO SENATE		
4/21	SIGNED BY PRESIDENT		
4/21	SIGNED BY SPEAKER		
4/22	TRANSMITTED TO GOVERNOR		
4/24	SIGNED BY GOVERNOR CHAPTER NUMBER 539 EFFECTIVE DATE: 10/01/93		

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Senator Kennedy, on January 21, 1993, at 1:00 p.m.

ROLL CALL

Members Present:
Sen. Ed Kennedy, Chair (D)
Sen. Sue Bartlett, Vice Chair (D)
Sen. Dorothy Eck (D)
Sen. Delwyn Gage (R)
Sen. Ethel Harding (R)
Sen. John Hertel (R)
Sen. Bernie Swift (R)
Sen. Eleanor Vaughn (D)
Sen. Mignon Waterman (D)
Sen. Jeff Weldon (D)

Members Excused: Sen. David Rye

Members Absent: None.

Staff Present: Connie Erickson, Legislative Council
Rosalyn Cooperman, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 106, SB 139
Executive Action: SB 92, SB 106, SB 139, HB 80

HEARING ON SB 106

Opening Statement by Sponsor:

Senator Delwyn Gage, Senate District 5, stated he would defer to Mr. Dave Woodgerd from the Department of Revenue to explain SB 106.

Proponents' Testimony:

Mr. Dave Woodgerd, Chief Counsel, Department of Revenue, spoke from prepared testimony in support of SB 106. (Exhibit #1)

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

Senator Gage stated he would close on SB 106 since there were no questions from the Committee.

EXECUTIVE ACTION ON SB 106

Motion/Vote:

Senator Eck moved SB 106 DO PASS. Motion carried unanimously.

HEARING ON SB 139

Opening Statement by Sponsor:

Senator Tom Towe, Senate District 46, stated SB 139 would allow local governments to invest in not just government bonds but other investments secured by the Federal Government. He said these investments secured by the Federal Government are just as safe as government bonds. Senator Towe said current law states, "A local governing body may invest public money not necessary for immediate use by the county, city or town in direct obligations of the United States government and securities issued by agencies of the United States." He noted SB 139 would also permit local governments to invest in securities guaranteed but not issued by agencies of the United States, mutual funds that invest only in government obligations or securities issued by agencies of the United States and securities guaranteed but not issued by agencies of the United States. Senator Towe concluded SB 139 is consistent with certain banking regulations.

ROLL CALL

SENATE COMMITTEE Local Government DATE 1-21-93

NAME	PRESENT	ABSENT	EXCUSED
Senator John "Ed" Kennedy	✓		
Senator Sue Bartlett	✓		
Senator Dorothy Eck	✓		
Senator Delwyn Gage	✓		
Senator Ethel Harding	✓		
Senator John Hertel	✓		
Senator David Rye			✓
Senator Bernie Swift	✓		
Senator Mignon Waterman	✓		
Senator Jeff Weldon	✓		
Senator Eleanor Vaughn	✓		

ECS

SENATE STANDING COMMITTEE REPORT

January 22, 1993

MR. PRESIDENT:

We, your committee on Local Government having had under consideration Senate Bill No. 106 (first reading copy -- white), respectfully report that Senate Bill No. 106 do pass.

Signed: John Ed Kennedy Jr.
Senator John "Ed" Kennedy, Jr., Chair

Amd. Coord.
Sec. of Senate

171030SC.San

DATE 21 January 1993

SENATE COMMITTEE ON Local Government

BILLS BEING HEARD TODAY: SB 106 - Gage

SB 139 - Towe

Name	Representing	Bill No.	Check One Support	Oppose
Sandra Vitzinger	MACo	SB139	✓	
Barney Gibson	MACo	SB106	✓	
Dave Woodward	Dept. of Rev.	SB106	✓	
Christine Mangiantini	LWV	SB139	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 1
DATE 1-21-93
BILL NO. SB 106

TESTIMONY OF THE DEPARTMENT OF REVENUE
ON SENATE BILL NO. 106
First Reading
January 21, 1993

The purpose of this bill is to insure that taxpayers get a refund on net or gross proceeds taxes, centrally assessed property taxes, and local government severance taxes if the department determines a refund is due.

Under 15-8-601, the department has 10 years to conduct an audit. The audit usually reveals that the taxpayer owes more taxes to the county. Sometimes the taxpayer is due a refund from the county. The current law does not require counties to give a refund when the taxpayer did not file a claim with the county within 10 years of the date the taxes were paid. Because this provision was enacted retroactively last session and because of delays, the taxpayer can not always file a claim within 10 years.

Section 15-16-601 has been repealed and replaced by Sections 1, 2 and 3. This change in format is simply to clarify what is presently in 15-16-601. The change in existing law to correct the above problem is found in Section 1(1)(d), page 2, lines 1 - 5.

This bill also makes the following changes in existing law to clarify the refund process:

1) Section 1(2), page 2, lines 9 through 10, provides that where an independent authority has not determined that a refund is due, the taxpayer must show that a refund is due.

2) Section 2, page 2, line 17, through page 3, line 6, provides for judicial review of a decision by the county commissioners to deny a tax refund.

There are no other substantive changes to existing law.

Closing by Sponsor:

SEN. WELDON closed the hearing on SB 63 and said **REP. STELLA JEAN HANSEN** would be carrying the bill on the House floor should it pass Committee.

HEARING ON SENATE BILL 106

Opening Statement by Sponsor:

SEN. DEL GAGE, SD 5, Cut Bank, introduced SB 106 by stating that the purpose of the bill is to insure that individuals would get a refund on net or gross proceeds taxes, centrally assessed property taxes, and local government severance taxes if the department determines a refund is due. **EXHIBIT 2**

Proponents' Testimony:

Dave Woodgerd, Chief Legal Counsel, Office of Legal Affairs, Department of Revenue, (DOR), testified in support of SB 106. The intent of the bill is to add fairness. As the law currently reads, the DOR has the right to audit tax returns for a period of ten years. However, in that same ten-year period there is no guarantee that the taxpayer can get a refund if the audit determines they actually overpaid their taxes. He stated this was a glitch resulting from a bill passed last session. The bill was passed retroactively resulting in a problem with the ten years.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. WYATT asked if, because the bill was retroactive, the taxpayer lost money for the two years because of the biennium. **Mr. Woodgerd** explained that the bill last session guaranteed the taxpayer a refund for the first time, before that there was never a guarantee. There was still a requirement that the taxpayer must file within ten years with the county commissioners if they wanted a refund, however, the DOR has ten years to start an audit and issue a preliminary assessment. As long as the DOR issues a preliminary assessment within ten years then the DOR is in agreement with the statute of limitations. The preliminary assessment is the beginning of the process. At that point the taxpayer has an opportunity to give reasons why they feel the audit is incorrect or why they do not owe additional money. As a result of this process taking a long time, a taxpayer could go beyond the ten-year period before there is a final determination. At this point it would be too late to go to the county commissioners for a refund.

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT COMMITTEE

ROLL CALL DATE 3/9/93

NAME	PRESENT	ABSENT	EXCUSED
REP. NORM WALLIN, CHAIRMAN			✓
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓		
REP. ELLEN BERGMAN	✓		
REP. JOHN BOHLINGER	✓		
REP. DAVE BROWN			✓
REP. TIM DOWELL	✓		
REP. DAVID EWER			✓
REP. STELLA JEAN HANSEN	✓		
REP. JACK HERRON	✓		
REP. ED McCAFFREE	✓		
REP. SHEILA RICE	✓		
REP. TIM SAYLES	✓		
REP. LIZ SMITH	✓		
REP. RANDY VOGEL			✓
REP. KARYL WINSLOW			✓
REP. DIANA WYATT	✓		

Closing by Sponsor:

SEN. GAGE closed the hearing on SB 106.

EXECUTIVE ACTION ON SENATE BILL 92

Motion/Vote: REP. HANSEN MOVED SB 92 BE CONCURRED IN. Motion carried unanimously.

Motion\Vote: REP. WYATT moved to put SB 92 on the consent calendar. Motion carried unanimously.

EXECUTIVE ACTION ON SENATE BILL 63

Motion/Vote: REP. WYATT moved SB 63 be concurred in. Motion carried unanimously. REP. HANSEN will carry SB 63.

EXECUTIVE ACTION ON SENATE BILL 52

Discussion: REP. BRANDEWIE explained again that SB 52 would give county commissioners an option of whether the interest is to be returned to the bridge or road fund or deposited in the general fund.

Motion/Vote: REP. HANSEN moved SB 52 be concurred in. Motion carried unanimously. REP. BRANDEWIE will carry SB 52.

Motion/Vote: REP. BERGMAN moved to put SB 52 on the consent calendar. Motion carried unanimously.

ADJOURNMENT

Adjournment: 3:45 p.m.

RAY BRANDEWIE, Vice Chairman

PAT BENNETT, Secretary

RB/pb

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Local Government COMMITTEE BILL NO. SB 106

DATE 3/9/93 SPONSOR(S) Senator Gage

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Dave Woodgerd	Dept. of Revenue	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

EXHIBIT 2
DATE 3/9/93
SB SB 106

TESTIMONY OF THE DEPARTMENT OF REVENUE
ON SENATE BILL NO. 106
First Reading
January 21, 1993

The purpose of this bill is to insure that taxpayers get a refund on net or gross proceeds taxes, centrally assessed property taxes, and local government severance taxes if the department determines a refund is due.

Under 15-8-601, the department has 10 years to conduct an audit. The audit usually reveals that the taxpayer owes more taxes to the county. Sometimes the taxpayer is due a refund from the county. The current law does not require counties to give a refund when the taxpayer did not file a claim with the county within 10 years of the date the taxes were paid. Because this provision was enacted retroactively last session and because of delays, the taxpayer can not always file a claim within 10 years.

Section 15-16-601 has been repealed and replaced by Sections 1, 2 and 3. This change in format is simply to clarify what is presently in 15-16-601. The change in existing law to correct the above problem is found in Section 1(1)(d), page 2, lines 1 - 5.

This bill also makes the following changes in existing law to clarify the refund process:

1) Section 1(2), page 2, lines 9 through 10, provides that where an independent authority has not determined that a refund is due, the taxpayer must show that a refund is due.

2) Section 2, page 2, line 17, through page 3, line 6, provides for judicial review of a decision by the county commissioners to deny a tax refund.

There are no other substantive changes to existing law.

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT COMMITTEE

ROLL CALL VOTE

DATE 3/16/93 BILL NO. SB 106 NUMBER 9-6

MOTION: Rep Brandin moved to concur in SB 106. motion failed.

NAME	AYE	NO
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓	
REP. ELLEN BERGMAN	✓	
REP. JOHN BOHLINGER	✓	
REP. DAVE BROWN		✓
REP. TIM DOWELL		✓
REP. DAVID EWER		✓
REP. STELLA JEAN HANSEN		✓
REP. JACK HERRON	✓	
REP. ED McCAFFREE		✓
REP. SHEILA RICE		✓
REP. TIM SAYLES	✓	
REP. LIZ SMITH		✓
REP. RANDY VOGEL	✓	
REP. KARYL WINSLOW		✓
REP. DIANA WYATT		✓
REP NORM WALLIN, CHAIRMAN		

EXECUTIVE ACTION ON SENATE BILL 49

Motion: **REP. VOGEL MOVED SB 49 BE CONCURRED IN.**

Discussion: **REP. BRANDEWIE**, addressing Rep. Hansen's amendment, noted that the change would make the bill an access bill. Every trace that existed since 1886 across every farm and ranch would be effected. The counties would be expected to maintain all of these roads and cannot afford it.

Motion/Vote: **REP. HANSEN** moved to amend SB 49 to reinsert the language on page 2, line 7. Motion failed with **REP. HANSEN** voting for the amendment.

Motion: **REP. McCAFFREE MOVED SB 49 BE NOT CONCURRED IN.**

Motion/Vote: **REP. BRANDEWIE MOVED TO TABLE SB 49.** Motion carried on a roll call vote 13-3.

EXECUTIVE ACTION ON SENATE BILL 106

Motion: **REP. WYATT MOVED SB 106 BE NOT CONCURRED IN.**

Discussion: **REP. WYATT** said she had concerns about page 1, line 20, and the possibility of the inclusion of livestock, motor vehicles, etc. in addition to net gross proceeds. Another concern is that this bill would change the appeal process. Currently a person goes to the county commissioners, then the State Tax Appeal Board (STAB), then to district court. This legislation would take the STAB out, which would mean a person would go directly to the district court for an appeal. She noted that there was a differentiation being made between gross and net proceeds and protested taxes. **REP. WYATT** said she had spoken with the STAB who stated they only go back three years and, based on that information, she suggested that is what the law should reflect.

REP. BRANDEWIE said the state can go back ten years on the taxpayer and this legislation would make it possible for the taxpayer to also go back ten years. He said he would have no problem of decreasing the time to three years, however, it should be an equal length of time for the state and the taxpayer.

Motion/Vote: **REP. BRANDEWIE** made a substitute motion that SB 106 be concurred in. Motion failed on a 9-6 roll call vote.

Motion/Vote: **REP. WYATT MOVED TO TABLE SB 106.** Motion carried 9-6.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN NORM WALLIN**, on April 6, 1993, at 3:50 p.m.

ROLL CALL

Members Present:
Rep. Norm Wallin, Chairman (R)
Rep. Ray Brandewie, Vice Chairman (R)
Rep. Ellen Bergman (R)
Rep. Tim Dowell (D)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Sheila Rice (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Randy Vogel (R)
Rep. Karyl Winslow (R)
Rep. Diane Wyatt (D)

Members Excused: Rep. Bohlinger, Rep. Brown, Rep. Ewer, and Rep. McCaffree (D)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Pat Bennett, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: None.
Executive Action: SB 106

EXECUTIVE ACTION ON SENATE BILL 106

Motion/Vote: **REP. VOGEL** moved to bring SB 106 off the table. Motion carried 7-6 with **REPS. MCCAFFREE, EWER, DOWELL, RICE, HANSEN**, and **WYATT** opposing.

Discussion: **REP. BRANDEWIE** informed the Committee that SB 106 would allow the taxpayer to recover overpaid taxes for the past ten years should it be discovered during an audit. At the present time the Department of Revenue (DOR) has 10 years it can go back on for audits and it is only fair that the taxpayer have the same time limit.

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT COMMITTEE

ROLL CALL DATE 4-6-93

NAME	PRESENT	ABSENT	EXCUSED
REP. NORM WALLIN, CHAIRMAN	✓		
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓		
REP. ELLEN BERGMAN	✓		
REP. JOHN BOHLINGER			✓
REP. DAVE BROWN			✓
REP. TIM DOWELL	✓		
REP. DAVID EWER proxy			✓
REP. STELLA JEAN HANSEN	✓		
REP. JACK HERRON	✓		
REP. ED McCAFFREE proxy			✓
REP. SHEILA RICE	✓		
REP. TIM SAYLES	✓		
REP. LIZ SMITH	✓		
REP. RANDY VOGEL	✓		
REP. KARYL WINSLOW	✓		
REP. DIANA WYATT	✓		

HOUSE STANDING COMMITTEE REPORT

April 6, 1993

Mr. Speaker: We, the committee on Local Government report that Senate Bill 106 (third reading copy -- blue) be concurred in .

Signed: Norm Wallin

Norm Wallin, Chair

Carried by: Rep. Brandewie

Committee Vote:
Yes 9, No 5.

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HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT COMMITTEE

ROLL CALL VOTE

DATE 4/6 BILL NO. SB 106 NUMBER 9-5

MOTION: Rep Brandewie moved do concur in SB 106.

Motion carried.

NAME	AYE	NO
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓	
REP. ELLEN BERGMAN	✓	
REP. JOHN BOHLINGER		
REP. DAVE BROWN		
REP. TIM DOWELL	—	✓
REP. DAVID EWER		✓ P
REP. STELLA JEAN HANSEN		✓
REP. JACK HERRON	✓	
REP. ED McCAFFREE		✓
REP. SHEILA RICE	✓	
REP. TIM SAYLES	✓	
REP. LIZ SMITH	✓	pass
REP. RANDY VOGEL	✓	
REP. KARYL WINSLOW	✓	
REP. DIANA WYATT		✓
REP NORM WALLIN, CHAIRMAN	✓	

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Local Government COMMITTEE BILL NO. SB 106

DATE April 6, 1993 SPONSOR(S) _____

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
[illegible]	[illegible]	X	
David W. Woodford	Dept. of Rev.	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

REP. SMITH asked if questions could be asked of those present from DOR. **REP. DOWELL** objected.

REP. WYATT noted that her concern was that the statute would bypass county commissioners and the State Tax Appeal Board (STAB) and any appeals would go directly to the district court.

REP. VOGEL asked **Mr. Campbell** to make a distinction between the present law and the proposed bill. **Mr. Campbell** said that under current law a taxpayer can submit a tax appeal to the county commissioners. If the commissioners review the request and do not agree, the taxpayer can then go to the STAB. The proposed bill would omit the STAB, therefore, an appeal would go from the county commissioners directly to the district court.

Motion/Vote: **REP. BRANDEWIE MOVED SB 106 BE CONCURRED IN.** Motion carried 9-5 on a roll call vote with **REPS. EWER** and **MCCAFFREE** voting by proxy.

ADJOURNMENT

Adjournment: 4:45 P.M.

NORM WALLIN, Chairman

PAT BENNETT, Secretary

NW/pb